

The Gazette of India

EXTRAORDINARY

PART II Section 2

PUBLISHED BY AUTHORITY

No. 56] NEW DELHI, MONDAY, DECEMBER 21, 1953

PARLIAMENT SECRETARIAT

NOTIFICATION

New Delhi, the 21st December 1953

No. F.527-L/53.—Under Rule 67 of the Rules of Procedure and Conduct of Business in the House of the People, the Speaker has been pleased to order the publication in the Gazette of India of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and the Statement of Objects and Reasons are accordingly published for general information:—

(TO BE INTRODUCED IN THE HOUSE OF THE PEOPLE)

Bill No. 69 of 1953

A Bill further to amend the Code of Criminal Procedure, 1898.

BE it enacted by Parliament as follows:—

1. Short title.—This Act may be called the Code of Criminal Procedure (Amendment) Act, 1953.

2. Amendment of section 4, Act V of 1898.—In section 4 of the Code of Criminal Procedure (hereinafter referred to as the principal Act), in clause (w) of sub-section (1), for the words “transportation or imprisonment for a term exceeding six months” the words “or imprisonment for a term exceeding one year” shall be substituted.

3. Amendment of section 9, Act V of 1898.—In sub-section (2) of section 9 of the principal Act,—

(a) the words “but, until such order is made, the Courts of Session shall hold their sittings as heretofore” shall be omitted; and

(b) to the said sub-section, the following proviso shall be added, namely:—

“Provided that a Court of Session may, if it is of opinion, after giving the prosecution and the accused an opportunity of being heard, that it will tend to the general convenience of the parties or witnesses in any particular case, sit for the trial of that case at any place within the sessions division”

4. Amendment of section 14, Act V of 1898.—In sub-section (1) of section 14 of the principal Act, after the words “any person”, the words “who has held any judicial post under the Union or a State or possesses such other qualifications as may be specified in this behalf by the State Government in a notification in the Official Gazette” shall be inserted.

5. Substitution of new section for section 30 in Act V of 1898.—For section 30 of the principal Act, the following section shall be substituted, namely:—

“30. *Offences punishable with imprisonment not exceeding seven years.*—The State Government may, notwithstanding anything contained in section 28 or section 29, invest the District Magistrate or any person who has been a Magistrate of the first class for not less than ten years, with power to try as a Magistrate all offences not punishable with death or with imprisonment exceeding seven years”.

6. Amendment of section 31, Act V of 1898.—In sub-section (3) of section 31 of the principal Act, for the words “of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years”, the words “of imprisonment for a term exceeding ten years” shall be substituted.

7. Amendment of section 32, Act V of 1898.—In sub-section (1) of section 32 of the principal Act,—

(i) in clause (a), for the words “one thousand” the words “two thousand” shall be substituted;

(ii) in clause (b), for the words “two hundred”, the words “five hundred” shall be substituted;

(iii) in clause (c), for the word fifty”, the words “one hundred” shall be substituted.

8. Substitution of new section for section 145 and section 146 in Act V of 1898.—For section 145 and section 146 of the principal Act, the following section shall be substituted, namely:—

“145. *Procedure where dispute concerning land, etc., is likely to cause breach of peace.*—(1) Whenever a District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his

jurisdiction, and he considers the case one of emergency, he may attach the subject of dispute until a competent Court has determined the rights of the parties thereto, or persons entitled to possession thereof.

(2) When the Magistrate attaches the subject of dispute, he may, if he thinks fit and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court, appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure:

Provided that in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged.

(3) The Magistrate who has attached the subject of dispute may withdraw the attachment at any time, if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute.

(4) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and if any such property is sold, he shall make such order for the custody of the sale proceeds thereof as he thinks fit pending the disposal of such property or the sale proceeds thereof by the competent Court.

(5) For the purposes of this section, the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(6) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107".

9. Amendment of section 147, Act V of 1898.—For sub-section (1) of section 147 of the principal Act, the following sub-sections shall be substituted, namely:—

"(1) Whenever any District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is satisfied from a police report or other information that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as explained in sub-section (5) of section 145 (whether such rights be claimed as easement or otherwise) within the limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims.

(1A) The Magistrate shall then peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence, if any, as he thinks necessary and decide whether such right existed at the date of the order made under sub-section (1)."

10. Amendment of section 148, Act V of 1898.—In sub-section (2) of section 148 of the principal Act, the word and figures “section 1” shall be omitted.

11. Amendment of section 161, Act V of 1898.—After sub-section (3) of section 161 of the principal Act, the following sub-section shall be inserted, namely:—

“(4) The police officer shall, as far as possible, in all cognizable cases and in particular, in all cases of offences triable by the Court of Session, produce before a Magistrate all the persons whose evidence, in the opinion of the police officer, will be material at the time of the inquiry or trial, to have their statements recorded under section 164”.

12. Omission of section 162, Act V of 1898.—Section 162 of the principal Act shall be omitted.

13. Amendment of section 164, Act V of 1898.—In sub-section (1) of section 164 of the principal Act, the words “specially empowered in this behalf by the State Government” shall be omitted.

14. Amendment of section 172, Act V of 1898.—For sub-section (2) of section 172 of the principal Act, the following sub-section shall be substituted, namely:—

“(2) Any Criminal Court may send for the police diaries of a case under inquiry or trial in such Court to aid it in such inquiry or trial and to satisfy itself that copies of all the relevant documents have been furnished to the accused”.

15. Amendment of section 173, Act V of 1898.—In section 173 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The report forwarded under sub-section (1) shall be accompanied by the following documents, namely:—

(a) copies of the information recorded under section 154;

(b) copies of statements recorded under sub-section (3) of section 161 of the witnesses on whom the prosecution proposes to rely;

(c) copies of all statements and affirmations recorded under section 164; and

(d) copies of all other documents on which the prosecution proposes to rely.”;

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) A copy of the report and all the documents accompanying the same shall be furnished to the accused before the commencement of the inquiry or trial:

Provided that if the Magistrate is of opinion that any document or part of any such document is not relevant to the subject-matter of the inquiry or trial or that its disclosure to the accused is not essential in the interests of justice

and is inexpedient in the public interests, he shall record such opinion (but not the reasons therefor) and shall exclude such part from the copy of the documents furnished to the accused”.

16. Amendment of section 198, Act V of 1898.—In section 198 of the principal Act, for the words and figures “Chapter XIX or Chapter XXI of the Indian Penal Code” the words and figures “Chapter XIX of the Indian Penal Code or Chapter XXI of the same Code except an offence of defamation against the President, the Governor or Rajpramukh of any State or a Minister or any other public servant in the discharge of his public functions” shall be substituted.

17. Amendment of section 200, Act V of 1898.—In section 200 of the principal Act, for the words “examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant” the words “examine the complainant and the witnesses present, if any, upon oath and the substance of the examination shall be reduced to writing and shall be signed by the complainant or, as the case may be, by the witnesses” shall be substituted.

18. Amendment of section 203, Act V of 1898.—In section 203 of the principal Act, after the words “of the complainant” the words “and the witnesses” shall be inserted.

19. Amendment of section 204, Act V of 1898.—In section 204 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) A list of the prosecution witnesses shall, before any summons or warrant is issued against the accused under sub-section (1), be furnished to the Magistrate and the witnesses may, if possible, be summoned to appear before the Magistrate before whom, and on the date on which the accused is to appear or is to be brought.”

20. Substitution of new sections for section 207 in Act V of 1898.—For section 207 of the principal Act, the following sections shall be substituted, namely:—

“207. *Procedure in inquiries preparatory to commitment.*—In any inquiry before a Magistrate where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court, the procedure to be adopted by such Magistrate—

(a) in any proceeding instituted on a police report, shall be in accordance with the provisions of section 207A; and

(b) in any other proceeding, in accordance with the other provisions of this Chapter.

207A. *Procedure to be adopted in proceedings instituted on police report.*—(1) In any proceeding instituted on a police report, the Magistrate shall, when the accused appears or is brought before him, satisfy himself that all documents referred to in section 173 have been furnished to the accused, and if he finds that any such document has not been so furnished, he shall cause the same to be furnished to the accused.

(2) The Magistrate shall peruse all the documents relevant to the case, examine the accused, if necessary, and after giving the prosecution and the accused an opportunity of being heard, he shall decide whether the accused should be committed for trial or should be tried before himself or some other Magistrate and he shall proceed accordingly.

(3) If, in the opinion of the Magistrate, the accused should be committed for trial, he shall prepare a draft charge indicating what offence the accused is alleged to have committed and make an order committing the accused for trial by the High Court or the Court of Session, as the case may be.

(4) As soon as such draft charge has been prepared, it shall be read and explained to the accused, and a copy thereof shall be given to him free of cost.

(5) The accused shall be required at once to give in orally or in writing, a list of the persons, if any, whom he wishes to be summoned to give evidence on his trial:

Provided that the Magistrate may, in his discretion, allow the accused to give in his list or any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this sub-section shall be deemed to preclude the accused from giving, at any time before his trial, to the clerk of the State a further list of the persons whom he wishes to be summoned to give evidence on such trial.

(6) When the accused has been committed for trial, the Magistrate shall summon the complainant and the witnesses for the prosecution and defence to appear before the Court to which the accused has been committed:

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the clerk of the State and such witnesses may be summoned accordingly:

Provided further that if the Magistrate thinks that any witness is included in the list given by the accused for the purpose of vexation or delay, or for defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may, before summoning him, require such sum to be deposited as such Magistrate thinks necessary to defray the expense of obtaining the attendance of the witness and all other proper expenses.

(7) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the State Government in this behalf, notifying the commitment, and stating the offence in the same form as the draft charge; and shall send the draft charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or where the commitment is made to the High Court, to the clerk of the State or other officer appointed in this behalf by the High Court.

(8) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

(9) Until and during the trial, the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant, to custody."

21. Amendment of section 208, Act V of 1898.—In sub-section (1) of section 208 of the principal Act, for the words "The Magistrate shall" the words "In any proceeding instituted otherwise than on a police report, the Magistrate shall" shall be substituted.

22. Amendment of section 209, Act V of 1898.—In sub-section (1) of section 209 of the principal Act, the words "for the purpose of enabling him to explain any circumstances appearing in the evidence against him" shall be omitted.

23. Amendment of section 226, Act V of 1898.—In section 226 of the principal Act, after the words "without a charge" the words "or with a draft charge" shall be inserted.

24. Amendment of section 227, Act V of 1898.—In sub-section (1) of section 227 of the principal Act, the words "or the opinions of the assessors are expressed" shall be omitted.

25. Amendment of section 250, Act V of 1898.—In sub-section (2) of section 250 of the principal Act, for the words "one hundred rupees or, if the Magistrate is a Magistrate of the third class, not exceeding fifty rupees" the words "half of the amount of fine he is empowered to impose" shall be substituted.

26. Substitution of new section for section 252 in Act V of 1898.—For section 252 of the principal Act, the following section shall be substituted, namely:—

"252. Evidence for prosecution.—(1) When the accused appears or is brought before a Magistrate, such Magistrate shall proceed to hear the complainant, if any, and take all such evidence as may be produced in support of the prosecution:

Provided that in any proceeding instituted on a police report, the Magistrate shall satisfy himself that all documents referred to in section 173 have been furnished to the accused and if he finds that any such document has not been so furnished, he shall cause the same to be furnished to the accused:

Provided further that the Magistrate may, for reasons to be recorded in writing, permit the cross-examination of any witness to be deferred until any other witness or witnesses have been examined.

(2) Notwithstanding anything contained in sub-section (1), the Magistrate shall not be bound to hear any person as complainant in any case in which the complaint has been made by a Court".

27. Amendment of section 254, Act V of 1898.—In section 254 of the principal Act, the words "or at any previous stage of the case" shall be omitted.

28. Amendment of section 256, Act V of 1898.—For sub-section of section 256 of the principal Act, the following sub-section shall be substituted, namely:—

“(1) If the accused refuses to plead or does not plead or claims to be tried, the Magistrate may, if he is of opinion that further cross-examination of any of the prosecution witnesses is necessary in the interests of justice, allow further cross-examination of such witnesses and the witnesses shall be recalled and after such further cross-examination and re-examination, if any, they shall be discharged and the accused shall then be called upon to enter upon his defence and produce his evidence”.

29. Amendment of section 257, Act V of 1898.—For sub-section (1) of section 257 of the principal Act, the following sub-section shall be substituted, namely:—

“(1) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness (other than a prosecution witness) on his behalf for the purpose of examination or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice and such ground shall be recorded by him in writing.”

30. Amendment of section 260, Act V of 1898.—In section 260 of the principal Act, for the words “fifty rupees” wherever they occur, the words “two hundred rupees” shall be substituted.

31. Substitution of new section for section 264 in Act V of 1898.—For section 264 of the principal Act, the following section shall be substituted, namely:—

“264. *Record in appealable cases.*—In every case tried summarily by a Magistrate or Bench in which an appeal lies, such Magistrate or Bench shall record the substance of the evidence and also the particulars mentioned in section 263 and shall, before passing any sentence, record the judgment in the case”.

32. Substitution of new section for section 268 in Act V of 1898.—For section 268 of the principal Act, the following section shall be substituted, namely:—

“268. *Trials before Court of Session.*—All trials before a Court of Session shall be either by jury or by the Judge himself”.

33. Amendment of section 269, Act V of 1898.—In sub-section (3) of section 269 of the principal Act, for the words “by the Court of Session, with the aid of the jurors as assessors” the words “by the Judge himself” shall be substituted.

34. Amendment of section 271, Act V of 1898.—To sub-section (1) of section 271 of the principal Act, the following proviso shall be added, namely:—

“Provided that where only a draft charge has been prepared by a Magistrate under section 207A, the Court shall frame a charge under his hand, declaring with what offence the accused is charged.”

35. Amendment of section 272, Act V of 1898.—In section 272 of the principal Act,—

- (i) the words “or assessors” shall be omitted;
- (ii) in the proviso, the words “or the same assessors may aid in the trial of” shall be omitted.

36. Amendment of section 274, Act V of 1898.—In sub-section (2) of section 274 of the principal Act,—

- (i) for the word “five” the word “seven” shall be substituted;
- (ii) in the proviso, for the words “shall consist of not less than seven persons and, if practicable, of nine persons”, the words “shall consist of, if practicable, of nine persons” shall be substituted.

37. Substitution of new section for section 282 in Act V of 1898.—For section 282 of the principal Act, the following section shall be substituted, namely:—

“282. *Procedure when juror ceases to attend, etc.*—(1) If, in the course of a trial by jury at any time before the return of the verdict,—

(a) any juror, for any sufficient cause, is prevented from attending the trial on any day, or

(b) if any juror absents himself and it is not practicable to enforce his attendance, or

(c) if it appears that any juror is unable to understand the language in which the evidence is given or, when such evidence is interpreted, the language in which it is interpreted,

the Court, in any case falling under clause (a), may either adjourn the trial or discharge the juror and in any case falling under clause (b) or clause (c), shall discharge the juror; and in any case where any juror is so discharged, the jury shall be deemed to be reconstituted with the remaining jurors as if the jury had consisted of such persons only from the commencement of the trial and the trial shall proceed before the jury so reconstituted; and notwithstanding anything contained elsewhere in this Act, such trial shall not be invalid by reason only of the fact that the number of persons originally constituting the jury has been reduced.

(2) Notwithstanding anything contained in sub-section (1), if, in the course of a trial by jury, the number of persons constituting the jury is so reduced that,—

(a) when the jury originally consisted of nine persons, it falls below seven; or

(b) when the jury originally consisted of seven persons, it falls below five;

the jury shall be discharged and a new jury chosen, and in each of such cases, the trial shall commence anew”.

38. Omission of sections 284 and 285 in Act V of 1898.—Section 284 and section 285 of the principal Act shall be omitted.

39. Amendment of section 286, Act V of 1898.—In section 286 of the principal Act,—

- (a) in sub-section (1), the words “or assessors” shall be omitted;

(b) to sub-section (2), the following proviso shall be added namely:—

“Provided that if after the examination of prosecution witnesses, the Court is of opinion that further cross-examination of any of the prosecution witnesses is necessary in the interests of justice, it may allow further cross-examination of such witnesses and the witnesses shall be recalled and after such further cross-examination and re-examination, if any, they shall be discharged”.

40. Amendment of section 287, Act V of 1898.—In section 287 of the principal Act, for the word “duly”, the words “if any” shall be substituted.

41. Amendment of section 289, Act V of 1898.—In sub-section (2) and sub-section (3) of section 289 of the principal Act, the words “in a case tried with the aid of assessors, record a finding, or” shall be omitted.

42. Amendment of section 291, Act V of 1898.—In section 291 of the principal Act, after the words “in sections” the figures and letter “207A” shall be inserted.

43. Amendment of section 293, Act V of 1898.—In section 293 of the principal Act, the words “or assessors” wherever they occur shall be omitted.

44. Amendment of section 294, Act V of 1898.—In section 294 of the principal Act, the words “or assessor” shall be omitted.

45. Amendment of section 295, Act V of 1898.—In section 295 of the principal Act, the words “or assessors” shall be omitted.

46. Amendment of section 297, Act V of 1898.—To section 297 of the principal Act, the following words shall be added, namely:—

“and the charge to the jury shall, wherever practicable, be taken down in shorthand in the language in which it is delivered”.

47. Amendment of section 301, Act V of 1898.—To section 301 of the principal Act, the following proviso shall be added, namely:—

“Provided that when there is no such majority, the foreman shall have a second or a casting vote”.

48. Omission of section 309, Act V of 1898.—Section 309 of the principal Act shall be omitted.

49. Amendment of section 310, Act V of 1898.—In section 310 of the principal Act,—

(a) the words “or with the aid of assessors” shall be omitted;

(b) in sub-clause (ii) of clause (a), the words “or the opinions of the assessors have been recorded” shall be omitted;

(c) clause (b) shall be omitted.

50. Amendment of section 319, Act V of 1898.—In section 319 of the principal Act,—

(a) the word “male” shall be omitted;

(b) the words “or assessors” shall be omitted.

51. Amendment of sections 320, 321, 324, 326, 327, 328, 331 and 332, Act V of 1898.—In sections 320, 321, 324, 326, 327, 328, 331 and 332 and sub-head K, the words “and assessors”, “or assessor”, “or

as an assessor", "or as assessor, as the case may be", or "and trials with the aid of assessors", wherever they occur shall be omitted.

52. Amendment of section 342, Act V of 1898.—In section 342 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Court may, either on its own motion or on the suggestion of the prosecution or the defence, at any stage of any inquiry or trial without previously warning the accused, put such questions to him as the Court considers necessary, and shall, for the purpose of enabling the accused to explain any circumstances appearing in the evidence against him, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence".

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) No oath shall be administered to the accused when he is examined under sub-section (1)".

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the accused may, if he so desires, offer himself to be examined as a witness on oath".

53. Amendment of section 344, Act V of 1898.—To sub-section (1) of section 344 of the principal Act, after the proviso, the following further proviso shall be inserted, namely:—

"Provided further that when witnesses are present, no adjournment or postponement shall be granted without examining them, except for special reasons to be recorded in writing".

54. Amendment of section 345, Act V of 1898.—In section 345 of the principal Act, for the table next following sub-section (2), the following table shall be substituted, namely:—

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Voluntarily causing hurt by dangerous weapons or means.	324	The person to whom hurt is caused.
Voluntarily causing grievous hurt	325	Ditto.
Voluntarily causing grievous hurt on grave and sudden provocation.	335	Ditto.
Causing hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	337	Ditto.
Causing grievous hurt by doing an act so rashly and negligently as to endanger human life or the personal safety of others.	338	Ditto.

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Wrongfully confining a person for three days or more.	343	The person confined.
Wrongfully confining for 10 or more days .	344	Ditto.
Wrongfully confining a person in secret . .	346	Ditto.
Assault or criminal force in attempting wrongfully to confine a person.	357	The person assaulted or to whom the force was used.
Theft	379	The owner of the property stolen.
Dishonest misappropriation of property . .	403	The owner of the property misappropriated.
Criminal breach of trust	406	The owner of the property in respect of which the breach of trust has been committed.
Criminal breach of trust by a carrier, wharfinger, etc.	407	The owner of the property in respect of which the breach of trust has been committed.
Criminal breach of trust by a clerk or servant .	408	Ditto.
Cheating	417	The person cheated.
Cheating a person whose interest the offender was bound, by law or by legal contract, to protect.	418	Ditto.
Cheating by personation	419	Ditto.
Cheating and dishonestly inducing delivery of property or the making, alteration or destruction of a valuable security.	420	Ditto.
Fraudulent removal or concealment of property, etc., to prevent distribution among creditors.	421	The creditors who are affected thereby.
Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	422	Ditto.
Mischief by killing, poisoning, maiming or rendering useless any animal of the value of 10 rupees or upwards.	428	The owner of the property damaged.
Mischief by killing, poisoning, maiming or rendering useless any elephant, camel, horse, etc., whatever may be its value or any other animal of the value of 50 rupees or upwards.	429	The owner of the property damaged.

Offence	Sections of the Indian Penal Code applicable	Persons by whom offence may be compounded
Mischief by injury to work of irrigation by wrongfully diverting water when the only loss or damage caused is loss or damage to a private person.	430	The person to whom the loss or damage is caused.
House-trespass to commit an offence (other than theft) punishable with imprisonment.	451	The person in possession of the house trespassed upon.
Using a false trade or property mark	482	The person to whom loss or injury is caused by such use.
Counterfeiting a trade or property mark used by another.	483	The person whose trade or property mark is counterfeited.
Knowingly selling, or exposing or possessing for sale or for trade or manufacturing purpose, goods marked with a counterfeit trade or property mark.	486	The person whose trade or property mark is counterfeited.
Marrying again during the life-time of a husband or wife.	494	The husband or wife of the person so marrying.
Uttering words or sounds or making gestures or exhibiting any object intending to insult the modesty of a woman or intruding upon the privacy of a woman.	509	The woman whom it was intended to insult or whose privacy was intruded upon."

55. Amendment of section 350, Act V of 1898.—In sub-section (1) of section 350 of the principal Act, for the words "or he may resummon the witnesses and re-commence the inquiry or trial" and the proviso, the following proviso shall be substituted, namely:—

"Provided that if the succeeding Magistrate is of opinion that further examination of any of the witnesses whose evidence is material and has already been recorded is necessary, such witnesses shall be recalled and after such further examination, cross-examination and re-examination, if any, as he may permit, they shall be discharged".

56. Amendment of section 356, Act V of 1898.—In section 356 of the principal Act,—

(a) in sub-section (1), after the words "direction and superintendence" the words "or from his dictation in open Court" shall be inserted;

(b) in sub-section (3), after the words "with his own hand" the words "or typed to his dictation and shall be signed by him with his own hand" shall be inserted.

57. Amendment of section 367, Act V of 1898.—For sub-section (5) of section 367 of the principal Act, the following sub-section shall be substituted, namely:—

“(5) In trials by jury, the Court need not write a judgment, but the Court of Session shall record the heads of the charges to the jury”.

58. Amendment of section 368, Act V of 1898.—Sub-section (2) of section 368 of the principal Act shall be omitted.

59. Amendment of section 371, Act V of 1898.—After sub-section (3) of section 371 of the principal Act, the following sub-section shall be inserted, namely:—

“(4) When the accused is sentenced to imprisonment, then, without prejudice to the provisions of sub-section (1) or sub-section (2) or sub-section (3), a copy of the finding and sentence shall, at the time of the delivery of the judgment, be given to the accused free of cost”.

60. Amendment of section 401, Act V of 1898.—To sub-section (6) of section 401 of the principal Act, the following proviso shall be added, namely:—

“Provided that in the case of a male person above the age of eighteen years who has been sentenced to imprisonment, no such petition for the suspension or remission of the sentence shall be entertained unless it is presented from a jail through the Superintendent of the Jail”.

61. Amendment of section 417, Act V of 1898.—Section 417 of the principal Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Without prejudice to the provisions of sub-section (1), when the proceedings have been instituted upon complaint, the complainant may, with the special leave of the High Court, present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than the High Court:

Provided that if the High Court dismisses the appeal and is of opinion that the appeal is either frivolous or vexatious, it may direct that such compensation as it may determine be paid by the appellant to the respondent or to each or any of them”.

62. Amendment of section 426, Act V of 1898.—In sub-section (2A) of section 426 of the principal Act, for the words “other than a person accused of a non-bailable offence is” the words “is convicted of a non-bailable offence and” shall be substituted.

63. Amendment of section 435, Act V of 1898.—In section 435 of the principal Act,—

(a) in sub-section (1) for the words “correctness, legality or propriety” the word “legality” shall be substituted;

(b) in sub-section (2), the words “or improper” shall be omitted.

64. Insertion of new sections 485A and 485B in Act V of 1898.—After section 485 of the principal Act, the following sections shall be inserted, namely:—

“485A. *Summary procedure for punishment for false evidence.*—When any Civil, Revenue or Criminal Court is of opinion

that any witness has, in any stage of the judicial proceeding of that Court, intentionally given false evidence in relation to any matter which affects the credibility or veracity of the witness and the Court is of opinion that it is expedient in the interests of justice that such person should be tried summarily, such Court may, without making a complaint under section 476, take cognizance of the offence and for reasons to be recorded in writing, sentence the offender to simple imprisonment for any term not exceeding one month, or to fine not exceeding two hundred rupees, or both.

485B. *Summary procedure for punishment for non-attendance by a witness in obedience to summons.*—If any witness being summoned by a Magistrate to appear before a Court is legally bound to appear at a certain place and time in obedience to the summons and without just excuse neglects or refuses to attend at that place or time or departs from the place where he has to attend before the time at which it is lawful for him to depart, and the Court before which the witness is to appear is of opinion that it is expedient in the interests of justice that such witness should be tried summarily, the Court may take cognizance of the offence and for reasons to be recorded in writing, sentence the offender to simple imprisonment for any term not exceeding fifteen days, or to fine not exceeding fifty rupees, or both."

65. Amendment of section 486, Act V of 1898.—In sub-section (1) of section 486 of the principal Act, after the word and figures "section 485" the words, figures and letters "or section 485A or section 485B" shall be inserted.

66. Amendment of section 488, Act V of 1898.—In sub-section (1) of section 488 of the principal Act, for the words "one hundred rupees" the words "five hundred rupees" shall be substituted.

67. Amendment of section 497, Act V of 1898.—In section 497 of the principal Act,—

(a) in sub-section (1), for the word "transportation" the word "imprisonment" shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) If the trial of any person accused of a non-bailable offence cannot be concluded by a Magistrate within six weeks from the date on which he appears or is brought before the Magistrate, he shall be released on bail to the satisfaction of the Magistrate, if he is in custody, unless the Magistrate for reasons to be recorded in writing, otherwise directs".

68. Amendment of section 503, Act V of 1898.—In section 503 of the principal Act,—

(a) in sub-section (1), for the words "District Magistrate or Presidency Magistrate" the words "or any Magistrate" shall be substituted;

(b) to the said sub-section, the following proviso shall be added, namely:—

"Provided that where the examination of the President or the Governor or Rajpramukh of a State as a witness is necessary, a commission shall be issued for the examination of such witness";

(c) sub-section (2) shall be omitted.

69. Amendment of section 505, Act V of 1898.—In sub-section (1) of section 505 of the principal Act, the words “of the first class” shall be omitted.

70. Amendment of section 510, Act V of 1898.—In section 510 of the principal Act, after the words “Examiner to Government” the words “or the Chief Inspector of Explosives or the Examiner of Questioned Documents or the Director of Finger Print Bureau or an officer of the Mint” shall be inserted.

71. Insertion of new section 510A in Act V of 1898.—After section 510 of the principal Act, the following section shall be inserted, namely:—

“510A. *Evidence on affidavits.*—(1) The evidence of any person referred to in section 510 or of any person whose evidence is of a formal character may be given by affidavit and may, subject to all just exceptions, be read in evidence in any inquiry, trial or other proceeding under this Code.

(2) The Court may, if it so thinks fit, and shall, on the application of the accused, summon and examine such persons as to the facts contained in the affidavit”.

72. Amendment of section 512, Act V of 1898.—In sub-section (2) of section 512 of the principal Act, for the word “transportation” the words “imprisonment for life” shall be substituted.

73. Amendment of section 516A, Act V of 1898.—In section 516A of the principal Act, after the words “speedy or natural decay” the words “or if it is otherwise expedient so to do, the Court” shall be inserted.

74. Amendment of section 526, Act V of 1898.—After sub-section (1) of section 526 of the principal Act, the following sub-section shall be inserted, namely:—

“(1A) Notwithstanding anything contained in sub-section (1), no application shall be made to the High Court for the exercise of its powers under the said sub-section for transferring any case from one Criminal Court to another Criminal Court in the same sessions division, unless an application for such transfer has been made to the Sessions Judge and rejected by him”.

75. Amendment of section 528, Act V of 1898.—After sub-section (1B) of section 528 of the principal Act, the following sub-section shall be inserted, namely:—

“(1C) Any Sessions Judge, on an application made to him in this behalf, may, if he is of opinion that it is expedient for the ends of justice, order that any particular case be transferred from one Criminal Court to another Criminal Court in the same sessions division.”

76. Substitution of new section for section 536 in Act V of 1898.—For section 536 of the principal Act, the following section shall be substituted, namely:—

“536. *Trial without jury of offences triable by jury.*—If an offence triable by a jury is tried without a jury, the trial shall not on that ground only be invalid, unless the objection is taken before the Court records its finding”.

77. Amendment of section 537, Act V of 1898.—In clause (c) of section 537 of the principal Act, the words “or assessors” shall be omitted.

78. Substitution of new sections for section 539A in Act V of 1898.—For section 539A of the principal Act, the following sections shall be substituted, namely:—

“539A. *Affidavit in proof of conduct of public servant.*—(1) When any application is made to any Court in the course of any inquiry, trial or other proceeding under this Code, and allegations are made therein respecting any public servant, the applicant may give evidence of the facts alleged in the application by affidavit, and the Court may, if it thinks fit, order that evidence relating to such facts be so given.

(2) Affidavits under this section shall be confined to, and shall state separately, such facts as the deponent is able to prove from his own knowledge and such facts as he has reasonable ground to believe to be true, and in the latter case, the deponent shall clearly state the grounds of such belief.

539AA. *Authorities before whom affidavits may be sworn.*—

(1) An affidavit to be used before any Court other than a High Court under section 510A or section 539A may be sworn or affirmed in the manner prescribed in section 539 or before any Magistrate.

(2) The Court may order any scandalous and irrelevant matter in the affidavit to be struck out or amended”.

79. Amendment of Schedule II to Act V of 1898.—In Schedule II to the principal Act,—

(a) for the entry relating to section 500 under Chapter XXI, the following entry shall be substituted, namely:—

I	2	3	4	5	6	7	8
500	(a) Defamation against the President, the Governor or Rajpramukh of a State or a Minister or any other public servant in the discharge of his public functions.	May arrest without warrant.	Warrant	Appeal-able.	Com-pound-able.	Simple imprisonment for two years' or fine or both.	Court of Session.
	(b) Defamation against any person other than a person referred to in clause (a) in the discharge of his public functions.	Shall not arrest without warrant.	Ditto	Ditto	Ditto	Ditto	Court of Session, Presidency Magistrate or Magistrate of the first class.

(b) in the 7th column, for the words "transportation for life" wherever they occur, the words "imprisonment for life" shall be substituted;

(c) in the 6th column, against entries relating to sections 344, 379, 406, 407, 408, 421, 422, 428 and 429, for the words "Not compoundable" wherever they occur, the words "Compoundable when permission is given by the Court before which the prosecution is pending" shall be substituted.

80. Power to construe certain provisions.—Whenever there is in any provision of the principal Act,—

(a) any reference to "transportation", it shall be deemed to have been substituted by the expression 'imprisonment'; and

(b) any reference to "assessors", it shall be deemed to have been omitted;

and any Court may construe the provision with such modifications as may be necessary for the purpose.

STATEMENT OF OBJECTS AND REASONS

The Code of Criminal Procedure was enacted in 1898 and though from time to time slight changes have been made in it, it has remained practically unaltered during the last 55 years. The aim of a sound Criminal Procedure is two-fold: (a) to provide adequate facilities to every accused person for defending himself in a proper manner, and (b) at the same time, to ensure speedy disposal of all criminal judicial business, so that innocent persons should not suffer from protracted proceedings and the real offenders should be punished as early as possible after proper trial. Experience has now shown that the present Criminal Procedure Code does not encourage speedy disposal and that it leaves many loopholes to guilty persons to postpone the evil day as much as possible. This is a very undesirable state of affairs and there is a growing public demand for simplification of procedure, so that the proceedings may be brought to a speedy end. The Bill is designed to meet that demand.

2. The Code deals with various offences in terms of their gravity. Offences of a petty nature can be tried by Magistrates of lower grades either by way of a summary trial or by a process known as the Summons Procedure. Offences of a more serious nature are triable either by Magistrates of 1st Class by what is known as the Warrant Procedure or by Sessions Judges. The procedure in this latter class of cases is fairly complicated and leads to great delays. The procedure in warrant cases involves innumerable adjournments and allows the accused person, if he so desires, to prolong the proceedings almost indefinitely. The trial in the Court of Session is preceded by an inquiry before a Magistrate. This inquiry is popularly known as Commitment Proceedings. The object underlying these Commitment Proceedings was to ensure that innocent persons should not be harassed by a Sessions trial and only those against whom there was a *prima facie* case should be committed for such trial. Experience, however, has shown that Magistrates

commonly commit practically all the persons brought before them by the police after careful investigation. The proportion of persons discharged at this stage does not exceed 2 per cent. or thereabouts. These Commitment Proceedings, however, often prove extremely lengthy, involve many adjournments and cause not only the prosecution, but the accused as well, trouble and heavy expense. Even after the commitment, the Sessions trial may not commence for some months, and the result is that persons guilty of extremely grave offences have to remain in suspense often for more than a year or so. In cases involving death penalty, the situation is still worse because under the law, a death sentence has to be confirmed by the High Court and this confirmation often takes anything from six months to a year, if not more. The Bill abolishes Commitment Proceedings in cognizable cases and the accused is to be put up by a Magistrate directly for trial before a Sessions Judge. To enable the accused to know the case that he has to meet, the Bill provides that he should, in good time, be supplied with copies of the statement recorded in police diaries during investigation, of statements before a Magistrate under Section 164, as well as copies of the First Information Report and all other material documentary or other evidence on which the prosecution proposes to rely. Commitment Proceedings are, however, being retained in cases initiated by private complainants. That is necessary because in such cases, safeguards which become available in cognizable cases through police investigation are non-existent.

3. The Bill is intended to simplify procedure to the utmost extent possible, and to avoid all possible delays and further to speed up trials regarding less serious offences. One of the results of this indefinite duration of criminal proceedings is the prolonged detention in jails of under-trial prisoners. This is very unsatisfactory. Every citizen is entitled to claim that he should be tried quickly or released on bail. Furthermore, delay in bringing the offender to trial leads to fading of memories and very reprehensible attempts on the part of guilty persons to suborn witnesses and thus defeat the ends of justice.

4. The Bill provides for extension of the Summons Procedure for trial of offences of a less serious nature and also enlarges the powers of Magistrates to impose higher sentences of fine.

5. To make the people feel that the courts are their courts, and that they should co-operate fully with the administration of justice, Sessions Judges are now being authorised, whenever they think fit and expedient, to hold trials at any place within their jurisdiction. The intention is that if it can be managed, a Sessions trial should be held as near the place of occurrence as possible, thereby causing the minimum inconvenience to the witnesses. The same rule would apply to magisterial trials. To stop the prevailing evil of perjury and to make the witnesses realise that it is a very anti-social act on the part of anyone to mislead a court of justice by deliberately giving false evidence, the courts are being authorised to try a witness summarily for the offence of perjury and call upon him to show cause why he should not be held guilty of this serious offence. The procedure in warrant cases is being simplified so that the prosecution witness should not normally be cross-examined more than once, nor

be liable to be called upon a second time unless the Magistrate think that there is real necessity for his further cross-examination. Adjournments are not to be allowed except for an unavoidable cause, and so far as possible, no adjournment is to be allowed without the examination of the witnesses then present in court. One of the frequent causes of repeated adjournments is the non-attendance of witnesses. There is a general impression that non-compliance with a summons of the court is not a serious matter, and unless a warrant is issued for any particular witness, he runs no peril. This false impression is sought to be removed by empowering Magistrates in suitable cases to punish people who disobey court summons without just cause.

6. All criminal cases mostly turn on facts and in every criminal case, there is a right of appeal provided either to the High Court or to the Sessions Judge. The time of the High Court is often wasted by the accused person applying in revision on totally insufficient grounds. This causes waste of judicial time in the High Court and enormous trouble and needless expense to the petitioners themselves who are often poor and are further impoverished as a result of such revisions. In order to put the matter beyond doubt, section 435 is being suitably amended, restricting revisions purely to points of law.

7. At present, every trial by a Court of Session must be either by jury or with the aid of assessors. The system of assessors has been condemned as being utterly useless. It is therefore proposed that it should be abolished. So far as trial by jury is concerned, opinion is divergent. No change has, therefore, been made in the existing provision under which it is open to any State Government to extend the jury system wherever it likes, to the whole or any part of the State, and for all or any specified class of offences. Wherever the system of trial by jury exists or is brought into force, in order to minimise the possibility of a *de novo* trial by reason of the illness or death of any juror, the number of jurymen has been increased and it is provided that the absence of one or two of them shall not interfere with the progress of the trial.

8. The Code already empowers courts to award compensation to the accused for the abuse of the process of the Court by making of false and frivolous complaints. The amount of compensation at present provided has been considered very low and is being increased. The amount that a Magistrate may award as maintenance to a deserted wife has been increased.

9. Various sections, particularly section 342, empower Magistrates and Sessions Judges to put questions to the accused at any stage of an inquiry or a trial, but this examination is not on oath, and is in the nature of things, sometimes very incomplete. These powers are now being made more general, and a Magistrate or a Judge is now being empowered to examine the accused of his own accord or at the suggestion of the prosecution or the defence on any point that he thinks fit, keeping, of course, in view the provisions of article 20(3) of the Constitution that, no accused shall be compelled to give evidence against himself. The accused is, however, being given liberty to offer himself as a witness on his own behalf if he so desires.

10. Often grossly improper, unfounded and defamatory allegations and charges are made against public servants in regard to their actions in the discharge of their official duties. It is desirable, in the public interest, that inquiries should be made into such charges. Therefore, such cases are being made cognizable so that they may be brought before a court by the police after proper investigation. Such cases are being made triable exclusively by a Court of Session.

11. In cases of disputes relating to immoveable properties, the existing provisions require a Magistrate to adjudicate upon the question as to which particular party was in possession of the properties. This results sometimes in protracted proceedings involving a good deal of public time and interference with other normal magisterial duties. Section 145 is, therefore, being suitably amended, empowering Magistrates to attach the property, to appoint receivers, if necessary and to direct the parties to resort to the civil court for the determination of their rights, including the question of possession over the property concerned.

12. General opinion has been expressed that the inadequacy of Magistrates is one of the primary causes for delays in the disposal of criminal judicial business in courts. In many States, the number of stipendiary Magistrates is small and their number is supplemented by appointment of a large number of honorary Magistrates. The existing provisions (section 14) authorises such appointment but that section contains no provision regarding the qualification of persons who might be appointed as honorary Magistrates. An amendment is now being made to ensure that such people should either be retired judicial officers or persons suitably qualified in accordance with the rule made by the State Government in this behalf.

13. It is proposed that an under-trial prisoner should normally be released on bail if his trial cannot be concluded within six weeks of his being brought before the Magistrate unless the Magistrate thinks his continued detention expedient in the ends of justice. In order to allow a convict opportunity for immediately applying for bail pending an appeal, the Magistrate is directed to supply him forthwith with a statement showing the nature of the finding and the length of the sentence. Section 401 gives powers to State Governments to remit or suspend sentences. In order to prevent very reprehensible endeavours on the part of convicted prisoners to avoid going to jail, and any disobedience to the order of the court, it has now been made clear that no application under section 401 will be entertained from any person, sentenced to imprisonment, unless it is made after surrender and through the jail authorities.

KAILAS NATH KATJU.

NEW DELHI;

The 21st December, 1953.

